

**STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD**

ORANGE UNIFIED SCHOOL DISTRICT,

Charging Party,

v.

ORANGE UNIFIED EDUCATION
ASSOCIATION, CTA/NEA,

Respondent.

Case No. LA-CO-822-E

PERB Decision No. 1437

May 16, 2001

Appearances: Hill, Farrer & Burrill by James A. Bowles, Attorney, for Orange Unified School District; Charles R. Gustafson, Attorney, for Orange Unified Education Association, CTA/NEA.

Before Amador, Baker and Whitehead, Members.

DECISION

BAKER, Member: This cases comes before the Public Employment Relations Board (PERB or Board) on exceptions filed by the Orange Unified Education Association, CTA/NEA (Association) to an administrative law judge's (ALJ) proposed decision. The ALJ found the Association failed to bargain in good faith in violation of section 3543.6(c) of the Educational Employment Relations Act (EERA)¹ when it refused to provide the Orange Unified School District (District) with certain information requested by the District.

¹ EERA is codified at Government Code section 3540 et seq. Section 3543.6(c) provides, in relevant part:

It shall be unlawful for an employee organization to:

By letter dated March 27, 2001, the District informed the Board that the District and the Association, the parties to the instant unfair practice charge, had reached a settlement agreement. In the agreement, the District agreed to withdraw the unfair practice charge and request that it be dismissed with prejudice. The March 27, 2001 letter included a copy of the settlement agreement. Specifically, the District agreed, among other items:

To seek dismissal, with prejudice, of the following matters now pending before the California Public Employment Relations Board [PERB]:

iii. The unfair practice decision and complaint entitled *Orange Unified School District, et al. v. Orange Unified Education Association, et al.*, Case No. LA-CO-822-E.
(Emphasis included in original.)

After reviewing the settlement agreement and the entire record in this matter, the Board finds that granting the District's request is in the best interest of the parties and is consistent with the purposes of the EERA.

DISCUSSION

When parties are successful in settling a dispute that formed the basis for an unfair practice charge before PERB, the Board is often presented with a request to withdraw a case that has reached the Board itself. The Board reviews each such request to determine whether granting it will effectuate the purposes of the EERA.

Where, as here, exceptions have been filed to a proposed decision, the Board is guided by PERB Regulation 32320², which provides, in pertinent part:

(a) The Board itself may:

(c) Refuse or fail to meet and negotiate in good faith with a public school employer of any of the employees of which it is the exclusive representative.

² PERB regulations are codified at California Code of Regulations, title 8, section 31001 et seq.

- (1) Issue a decision based upon the record of hearing, or
- (2) Affirm, modify or reverse the proposed decision, order the record re-opened for the taking of further evidence, or take such other action as it considers proper.

It is clear that the Board has the discretion to grant or deny the request and to allow the withdrawal of a charge and complaint, and to vacate a proposed decision. (ABC Unified School District (1990) PERB Decision No. 831b.)

In this case, the parties have entered into and provided the Board with a copy of the settlement agreement which very clearly indicates the parties have settled their dispute which formed the basis of the instant unfair practice charge. The Board concludes it effectuates the purposes of EERA to dismiss the unfair practice charge and complaint and vacate the proposed decision.

ORDER

Accordingly, it is hereby ORDERED that the unfair practice charge in Case No. LA-CO-822-E is WITHDRAWN WITH PREJUDICE; the complaint is DISMISSED WITH PREJUDICE; and the proposed decision issued on February 22, 2001 is VACATED.

Members Amador and Whitehead joined in this Decision.